

STATE OF IOWA  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

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PUBLIC EMPLOYMENT RELATIONS BOARD

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MEL BROWN,	)	
	)	
Appellant,	)	
	)	
vs.	)	CASE NO. 87-MA-24
	)	
IOWA DEPARTMENT OF CORRECTIONS,	)	
	)	
Appellee.	)	

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Appearances

For Mel Brown:

Mel Brown, Appellant  
Beverly Goodwin, Correctional Officer  
Terry Hawkins, Security Director

For the Department:

John Ault, Superintendent  
Merrie Murray, Director of Personnel

I. JURISDICTION

On February 26, 1987, Mel Brown was notified that he would receive a five-day suspension for violating two work rules regarding falsifying records and making false and malicious statements about fellow employees. This appeal is properly before the Public Employment Relations Board. A hearing was held before me on June 10, 1987 in Des Moines, Iowa. The hearing was tape recorded and the parties did not file briefs.

II. ISSUE

The issue in this case is whether the Department had just cause to discipline Mel Brown, and if not, what is the appropriate remedy.

### III. FACTS

Mel Brown has been employed at the North Central Correctional Facility in Rockwell City, Iowa since August 16, 1982. He was suspended for five days, March 1-5, 1987. Brown was also suspended for five days in 1983 or 1984. Brown's suspension was the first imposed by John Ault since he became Superintendent at the NCCF.

Brown's most recent suspension was for the alleged violation of two work rules:

2. Disclosure and/or unethical use of confidential information and records as well as intentionally falsifying records, giving false information regarding clients or programs to other government agencies, private organizations or to employees responsible for record keeping is prohibited.

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12. Employees may not make false or malicious statements concerning other employees, supervisors, clients or others who work in the Department.

There is no question that Brown was aware of the rules.

The incidents leading to Brown's suspension began on October 21, 1986. On that date, Brown was told to arrange a trip to transport residents from Newton, Iowa to NCCF. Correctional Officers are assigned to take these trips on the basis of overtime worked and trips taken; the correctional officer with the least overtime and fewest trips taken is assigned the duty. On October 22, Brown made calls to several correctional officers and selected Officers Black and Taylor to make the trip.

On October 28, Officer Ritts filed a grievance with Security Director Terry Hawkins, alleging that she should have been assigned to take the trip to Newton. Hawkins examined the trip and overtime record, found that Brown had unsuccessfully attempted to call Ritts on two occasions, and on that basis, denied the grievance. Ritts acknowledged that she was not at home when the

record shows that Brown made the calls. The grievance was appealed to John Ault, the Superintendent at NCCF, who also denied the grievance, while noting that "[a]lleged discrepancies in the trip/overtime record are being investigated as is the procedure for recording which officers were contacted to make a trip and which ones were assigned."

Ault's comment referred to a discrepancy in the trip/overtime log discovered by union officers while investigating Ritts' grievance. After Officer Williamson's name, Brown noted that he attempted to contact Williamson to take the Newton trip on October 22. This entry is preceded by a notation made by Shift Supervisor Beverly Goodwin dated November 4. The union officers alleged that Brown made the entry "no answer 10-22-86" after Williamson's name after Goodwin made her entry to conceal the fact that Brown had not, in fact, contacted Williamson before assigning the Newton trip, and that this added support to Ritts' allegation that Brown did not attempt to call Ritts.

Ault conducted an investigation of this allegation, during which he interviewed Brown and Goodwin and received several written statements on how trips are assigned. During the investigation and hearing, Brown indicated that all entries in the log were made on October 22, the day the calls were made, and October 23. The reason given for the entries being made on October 23 was that Brown made notes on a piece of paper he inadvertently took home, and which he recorded in the log the following day. Brown's explanation for Goodwin's entry preceding his was that Goodwin had made the assignment two weeks in advance.

Goodwin stated, during the investigation and hearing, that although she could not recall exactly when she assigned the November 4 dental trip, she usually assigned the trips three or four days in advance, and that she had never assigned a trip two weeks in advance. Brown alleges that Goodwin lied

about this fact.

Goodwin's statement was corroborated by a statement from Sue Meyer, R.N., who supplies the names of the inmates who will go on a dental to the shift supervisor on the Friday or Saturday before the Tuesday trip. Further, Williamson gave Ault a written statement that said he had been contacted on November 3 to make the November 4 trip. Officer Osterberg, who also made the November 4 trip, could not remember when he received the assignment.

Based on this evidence, Ault concluded that Brown did not call Williamson on October 22, and entered the notation after the Ritts grievance was filed. Ault then suspended Brown for five days for falsifying records and making accusations of Goodwin's dishonesty.

At hearing, both parties indicated that many of the records kept at the NCCF contain errors.<sup>1/</sup> Brown also contends that his entry after Williamson's name was in the log on October 23, as the union officers would otherwise have had no reason to raise the issue regarding the discrepancies. None of those present at the hearing knew when the union officers had examined the log book, and made this discovery. The Ritts grievance indicates that the discovery of the discrepancy occurred prior to November 24, the date Ault referred to the discrepancy in his denial of the grievance.

#### IV. POSITIONS OF THE PARTIES

The Department asserts that Brown, by falsifying records and making accusations of Goodwin's dishonesty, violated two work rules, and it therefore had just cause to suspend Brown for five days.

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1/ It should be noted that Brown was disciplined for deliberately falsifying records, not for making errors in record keeping.

Brown contends that a five-day suspension is too harsh a penalty for making an error in record keeping, a widespread occurrence at NCCF. Brown also asserts that he made the call to Williamson on October 22 and recorded the entry on October 23, at which time Goodwin's November 4 entry was in the book.

V. DISCUSSION AND CONCLUSIONS OF LAW

Section 19A.14 IOWA CODE (1987) provides that decisions in appeals of discipline of Merit System employees "shall be based upon a standard of just cause."

In this case, the Department had the burden of proving it had just cause to suspend Brown for five days, based on the type of evidence upon which reasonably prudent persons would rely in the conduct of their serious affairs. See Lang v. Dept. of Corrections, 87-MA-16. Thus, two questions must be answered: 1) was the Department reasonable in reaching its conclusion that Brown falsified records and made false and malicious statements about Goodwin, and 2) whether the five-day suspension was too severe.

The Department made a thorough investigation of the allegation that Brown falsified the trip/overtime record. Brown and Goodwin were both questioned and asked to provide written information concerning the specific incident and their general practices. The testimony and other evidence presented by Brown and Goodwin is conflicting, however Goodwin's statements are corroborated by statements of two other employees. The other employee interviewed could not recall the relevant events. Goodwin's testimony has been consistent, and no motive has been suggested as to why she would lie about when she made the November 4 entry. Although Brown's version of what occurred is plausible, it has no additional support. Therefore, I find that the Department's conclusion that Brown falsified the trip/overtime record reasonable. It was therefore also reasonable for the Department to conclude that Brown's allegations regarding Goodwin's testimony were false.

Further, I find that a five-day suspension is not too severe a penalty for violations of work rule nos. 2 and 12. Falsification of records and making false accusations of another employee's dishonesty are serious matters, a fact which is emphasized by this sanction. Hopefully, a penalty of this severity will also have a deterrent effect. Thus, I find that the Department had just cause to suspend Brown for five days.

VI. AWARD

The appeal is denied.

DATED at Des Moines, Iowa this 19th day of June, 1987.

Amy J. Mills  
AMY J. MILLS, ADJUDICATOR